

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

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| INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 42, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Public Case No. R 2003-044 |
| |) | |
| SMITHVILLE AREA FIRE PROTECTION |) | |
| |) | |
| |) | |
| Respondent. |) | |

JURISDICTIONAL STATEMENT

The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining units by virtue of Section 105.525, RSMo. 2000. The matter before the State Board of Mediation arises from the filing by the International Association of Fire Fighters, Local 42 (hereinafter referred to as the Union) of a petition to represent certain employees of the Smithville Area Fire Protection District, (hereinafter referred to as the District). In its petition the Union sought to represent all paid employees below the rank of assistant chief excluding the fire chief, administrative assistant and assistant chief. The District maintained that the description was too vague and overbroad as it included positions that may be created in the future.

A hearing on this matter was held on August 26, 2003, in Kansas City, Missouri, at which representatives of the Union and the District were present. The case was heard by State Board of Mediation Chairman John A. Birch, and Employer Member Jay Schultehenrich. By agreement of the parties Employee Member Leroy Kraemer decided the case based on the transcript and record.

At the hearing, the parties were given full opportunity to present evidence and make their arguments. At the commencement of the hearing the issue of paid part-time firefighters

was raised. The District maintained that the description in the petition of the unit as all paid employees also included the paid part-time firefighters. The Union stated that it did not seek to represent the part-time paid workers. The parties filed post hearing briefs in this matter. Both briefs proclaim that part-time paid firefighters should not be included in the bargaining unit. After a careful review of the evidence and the arguments of the parties, the Board sets forth the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Smithville Fire Protection District provides fire suppression services and act as first responders in the Smithville area. The District employs a Chief, seven paid full-time firefighters, a part-time administrative secretary, a part-time assistant chief/building inspector, eight to ten paid part-time firefighters and a pool of approximately 30 volunteer fire fighters. The seven full-time firefighters all have the same job title and duties. There are no lieutenants or captains. At the present time there are no specific plans to increase the staff or create a lieutenant or captain position although the Chief has considered the idea.

The full-time firefighters work 24 hours and then are off 48 hours. At any time the preference is to have three firefighters on duty and at least two should be experienced firefighters. The part-time firefighters work the hours they are available and are not scheduled on the 24/48 schedule.

The original petition sought a bargaining unit composed of all paid employees below the rank of assistant chief excluding the fire chief, administrative assistant and the assistant chief. In the supplemental post hearing brief the Union sought leave to amend the description of the proposed bargaining unit to "all paid, full-time employees below the rank of Assistant Chief excluding Fire Chief, Administrative Assistant, Assistant Chief." In the post hearing brief the District indicated that it was not requesting to have the part-time employees included in the unit.

CONCLUSIONS OF LAW

The Union seeks to represent a bargaining unit consisting of all paid full-time employees below the rank of Assistant Chief.

An appropriate bargaining unit is defined in Section 105.500(1) RSMo. 2000 as:

A unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned.

The seven full-time firefighters have a clear and identifiable community of interest as all members in the proposed unit have the same job and duties. The parties do not dispute that the seven firefighters are appropriate for a unit.

The only unresolved issue, raised by the District, is whether the description is too broad and indefinite that it might cover positions that could be created in the future. There are no specific plans to hire additional staff in the future. The approved unit description clearly states who is covered by the proposed unit and addresses all current positions. If additional positions are added and there is a question whether they belong in the unit the parties should file a unit clarification petition with the Board. See 8 C.S.R. 40-2.050. The Board will then determine if those positions have a community of interest with the others in the unit. This Board has no jurisdiction or authority to address hypothetical situations. 105.525 RSMo.

ORDER

The State Board of Mediation finds as follows:

- (1) That a bargaining unit consisting of all full-time Fire District employees below the rank of Assistant Chief excluding the Fire Chief, Administrative Assistant, and Assistant Chief is an appropriate unit.
- (2) An election is ordered in the bargaining unit set forth in this order.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation, or its designated representative, among the employees in the aforementioned bargaining unit, as early as possible, but no later than 45 days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. The employees eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during the period because of vacation or illness. Those employees ineligible to vote are those who quit or were discharged since the designated payroll period and who have not been rehired or reinstated before the election. Those eligible to vote shall vote whether or not they desire to have the International Association of Fire Fighters, Local 42 as their exclusive bargaining representative.

The District shall submit to the Chairman of the State Board of Mediation, within fourteen calendar days from the date of this decision, an alphabetical list of names and addresses of employees in the aforementioned bargaining unit who were employed during the payroll period immediately preceding the date of this decision.

Signed this 18th day of November, 2003.

STATE BOARD OF MEDIATION

(SEAL)

John Birch, Chairman

Leroy Kraemer, Employee Member

Jay Schulteheinrich, Employer Member